

AMENDED IN ASSEMBLY MARCH 15, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1912

Introduced by Assembly Member Achadjian
(Principal coauthor: Assembly Member Chávez)

February 11, 2016

An act to amend ~~Section 290~~ *Sections 290 and 290.46* of the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 1912, as amended, Achadjian. Sex offenders.

Existing law requires every person convicted of certain offenses, for the rest of his or her life while residing in California, or while attending school or working in California, as specified, to register with the chief of police of the city in which he or she is residing, or the sheriff of the county if he or she is residing in an unincorporated area or city that has no police department, and, additionally, with the chief of police of a campus of the University of California, the California State University, or community college if he or she is residing upon the campus or in any of its facilities, within 5 working days of coming into, or changing his or her residence within, any city, county, or city and county, or campus in which he or she temporarily resides, and to register thereafter as specified. *Existing law makes it a crime for a person who is required to register and fails to do so. Existing law requires the Department of Justice to make available to the public information concerning registered sex offenders on an Internet Web site, as specified.*

~~This bill would make technical, nonsubstantive changes to these provisions.~~

This bill would require a person convicted of soliciting a minor who the person knew, or reasonably should have known, was a victim of human trafficking to register as a sex offender for a period of 5 years after a first conviction, 10 years after a second conviction, and 20 years after a third or subsequent conviction. By requiring more people to register and therefore expanding the scope of a crime, the bill would create a state-mandated local program. The bill would additionally require the department to make available to the public specified information regarding the person on the Internet Web site, for the time that the person has to register.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 290 of the Penal Code is amended to
2 read:
3 290. (a) Sections 290 to 290.024, inclusive, shall be known,
4 and may be cited, as the Sex Offender Registration Act. All
5 references to “the Act” in those sections are to the Sex Offender
6 Registration Act.
7 (b) Every person described in *paragraph (1) of subdivision (c)*,
8 for the rest of his or her life while residing in California, or while
9 attending school or working in California, as described in Sections
10 290.002 and 290.01, *and every person described in paragraph (2)*
11 *of subdivision (c), as described in that paragraph*, shall be required
12 to register with the chief of police of the city in which he or she
13 is residing, or the sheriff of the county if he or she is residing in
14 an unincorporated area or city that has no police department, and,
15 additionally, with the chief of police of a campus of the University
16 of California, the California State University, or community college
17 if he or she is residing upon the campus or in any of its facilities,
18 within five working days of coming into, or changing his or her
19 residence within, any city, county, or city and county, or campus

1 in which he or she temporarily resides, and shall be required to
2 register thereafter in accordance with the Act.

3 (c) (1) The following persons shall be required to register:

4 Every person who, since July 1, 1944, has been or is hereafter
5 convicted in any court in this state or in any federal or military
6 court of a violation of Section 187 committed in the perpetration,
7 or an attempt to perpetrate, rape or any act punishable under
8 Section 286, 288, 288a, or 289, Section 207 or 209 committed
9 with intent to violate Section 261, 286, 288, 288a, or 289, Section
10 220, except assault to commit mayhem, subdivisions (b) and (c)
11 of Section 236.1, Section 243.4, paragraph (1), (2), (3), (4), or (6)
12 of subdivision (a) of Section 261, paragraph (1) of subdivision (a)
13 of Section 262 involving the use of force or violence for which
14 the person is sentenced to the state prison, Section 264.1, 266, or
15 266c, subdivision (b) of Section 266h, subdivision (b) of Section
16 266i, Section 266j, 267, 269, 285, 286, 288, 288a, 288.3, 288.4,
17 288.5, 288.7, 289, or 311.1, subdivision (b), (c), or (d) of Section
18 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6, former
19 Section 647a, subdivision (c) of Section 653f, subdivision 1 or 2
20 of Section 314, any offense involving lewd or lascivious conduct
21 under Section 272, or any felony violation of Section 288.2; any
22 statutory predecessor that includes all elements of one of the
23 above-mentioned offenses; or any person who since that date has
24 been or is hereafter convicted of the attempt or conspiracy to
25 commit any of the above-mentioned offenses.

26 (2) *Notwithstanding any lifetime registration requirement of*
27 *this chapter, any person convicted of subdivision (b) of Section*
28 *647 if the person knew, or reasonably should have known, that the*
29 *other participant was a minor and a victim of human trafficking,*
30 *as defined in Section 236.1, shall, while residing in California or*
31 *while attending school or working in California, as described in*
32 *Sections 290.002 and 290.01, be required to register in accordance*
33 *with subdivision (b) as follows:*

34 (A) *For a period of five years from the date of a first conviction.*

35 (B) *For a period of 10 years from the date of a second*
36 *conviction.*

37 (C) *For a period of 20 years from the date of a third or*
38 *subsequent conviction.*

39 SEC. 2. Section 290.46 of the Penal Code is amended to read:

1 290.46. (a) (1) On or before the dates specified in this section,
2 the Department of Justice shall make available information
3 concerning persons who are required to register pursuant to Section
4 290 to the public via an Internet Web site as specified in this
5 section. The department shall update the Internet Web site on an
6 ongoing basis. All information identifying the victim by name,
7 birth date, address, or relationship to the registrant shall be
8 excluded from the Internet Web site. The name or address of the
9 person's employer and the listed person's criminal history other
10 than the specific crimes for which the person is required to register
11 shall not be included on the Internet Web site. The Internet Web
12 site shall be translated into languages other than English as
13 determined by the department.

14 (2) (A) On or before July 1, 2010, the Department of Justice
15 shall make available to the public, via an Internet Web site as
16 specified in this section, as to any person described in subdivision
17 (b), (c), or (d), the following information:

18 (i) The year of conviction of his or her most recent offense
19 requiring registration pursuant to Section 290.

20 (ii) The year he or she was released from incarceration for that
21 offense.

22 (iii) Whether he or she was subsequently incarcerated for any
23 other felony, if that fact is reported to the department. If the
24 department has no information about a subsequent incarceration
25 for any felony, that fact shall be noted on the Internet Web site.

26 However, no year of conviction shall be made available to the
27 public unless the department also is able to make available the
28 corresponding year of release of incarceration for that offense, and
29 the required notation regarding any subsequent felony.

30 (B) (i) Any state facility that releases from incarceration a
31 person who was incarcerated because of a crime for which he or
32 she is required to register as a sex offender pursuant to Section
33 290 shall, within 30 days of release, provide the year of release
34 for his or her most recent offense requiring registration to the
35 Department of Justice in a manner and format approved by the
36 department.

37 (ii) Any state facility that releases a person who is required to
38 register pursuant to Section 290 from incarceration whose
39 incarceration was for a felony committed subsequently to the

1 offense for which he or she is required to register shall, within 30
2 days of release, advise the Department of Justice of that fact.

3 (iii) Any state facility that, prior to January 1, 2007, released
4 from incarceration a person who was incarcerated because of a
5 crime for which he or she is required to register as a sex offender
6 pursuant to Section 290 shall provide the year of release for his or
7 her most recent offense requiring registration to the Department
8 of Justice in a manner and format approved by the department.
9 The information provided by the Department of Corrections and
10 Rehabilitation shall be limited to information that is currently
11 maintained in an electronic format.

12 (iv) Any state facility that, prior to January 1, 2007, released a
13 person who is required to register pursuant to Section 290 from
14 incarceration whose incarceration was for a felony committed
15 subsequently to the offense for which he or she is required to
16 register shall advise the Department of Justice of that fact in a
17 manner and format approved by the department. The information
18 provided by the Department of Corrections and Rehabilitation
19 shall be limited to information that is currently maintained in an
20 electronic format.

21 (3) The State Department of State Hospitals shall provide to the
22 Department of Justice Sex Offender Tracking Program the names
23 of all persons committed to its custody pursuant to Article 4
24 (commencing with Section 6600) of Chapter 2 of Part 2 of Division
25 6 of the Welfare and Institutions Code, within 30 days of
26 commitment, and shall provide the names of all of those persons
27 released from its custody within five working days of release.

28 (b) (1) On or before July 1, 2005, with respect to a person who
29 has been convicted of the commission or the attempted commission
30 of any of the offenses listed in, or who is described in, paragraph
31 (2), the Department of Justice shall make available to the public
32 via the Internet Web site his or her name and known aliases, a
33 photograph, a physical description, including gender and race, date
34 of birth, criminal history, prior adjudication as a sexually violent
35 predator, the address at which the person resides, and any other
36 information that the Department of Justice deems relevant, but not
37 the information excluded pursuant to subdivision (a). On or before
38 January 1, 2013, the department shall make available to the public
39 via the Internet Web site his or her static SARATSO score and

1 information on an elevated risk level based on the SARATSO
2 future violence tool.

3 (2) This subdivision shall apply to the following offenses and
4 offenders:

5 (A) Section 187 committed in the perpetration, or an attempt to
6 perpetrate, rape or any act punishable under Section 286, 288,
7 288a, or 289.

8 (B) Section 207 committed with intent to violate Section 261,
9 286, 288, 288a, or 289.

10 (C) Section 209 committed with intent to violate Section 261,
11 286, 288, 288a, or 289.

12 (D) Paragraph (2) or (6) of subdivision (a) of Section 261.

13 (E) Section 264.1.

14 (F) Section 269.

15 (G) Subdivision (c) or (d) of Section 286.

16 (H) Subdivision (a), (b), or (c) of Section 288, provided that the
17 offense is a felony.

18 (I) Subdivision (c) or (d) of Section 288a.

19 (J) Section 288.3, provided that the offense is a felony.

20 (K) Section 288.4, provided that the offense is a felony.

21 (L) Section 288.5.

22 (M) Subdivision (a) or (j) of Section 289.

23 (N) Section 288.7.

24 (O) Any person who has ever been adjudicated a sexually violent
25 predator, as defined in Section 6600 of the Welfare and Institutions
26 Code.

27 (P) A felony violation of Section 311.1.

28 (Q) A felony violation of subdivision (b), (c), or (d) of Section
29 311.2.

30 (R) A felony violation of Section 311.3.

31 (S) A felony violation of subdivision (a), (b), or (c) of Section
32 311.4.

33 (T) Section 311.10.

34 (U) A felony violation of Section 311.11.

35 (c) (1) On or before July 1, 2005, with respect to a person who
36 has been convicted of the commission or the attempted commission
37 of any of the offenses listed in paragraph (2), the Department of
38 Justice shall make available to the public via the Internet Web site
39 his or her name and known aliases, a photograph, a physical
40 description, including gender and race, date of birth, criminal

1 history, the community of residence and ZIP Code in which the
2 person resides or the county in which the person is registered as a
3 transient, and any other information that the Department of Justice
4 deems relevant, but not the information excluded pursuant to
5 subdivision (a). On or before July 1, 2006, the Department of
6 Justice shall determine whether any person convicted of an offense
7 listed in paragraph (2) also has one or more prior or subsequent
8 convictions of an offense listed in subdivision (c) of Section 290,
9 and, for those persons, the Department of Justice shall make
10 available to the public via the Internet Web site the address at
11 which the person resides. However, the address at which the person
12 resides shall not be disclosed until a determination is made that
13 the person is, by virtue of his or her additional prior or subsequent
14 conviction of an offense listed in subdivision (c) of Section 290,
15 subject to this subdivision.

16 (2) This subdivision shall apply to the following offenses:

17 (A) Section 220, except assault to commit mayhem.

18 (B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

19 (C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
20 (i), of Section 286.

21 (D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
22 (i), of Section 288a.

23 (E) Subdivision (b), (d), (e), or (i) of Section 289.

24 (F) (i) *Subdivision (b) of Section 647 if the person convicted*
25 *knew, or should reasonably have known, that the other participant*
26 *was a minor and a victim of human trafficking, as defined in*
27 *Section 236.1.*

28 (ii) *The information of a person subject to clause (i) shall be*
29 *posted for five years after a first conviction, 10 years after a second*
30 *conviction, and 20 years after a third or subsequent conviction.*

31 (d) (1) On or before July 1, 2005, with respect to a person who
32 has been convicted of the commission or the attempted commission
33 of any of the offenses listed in, or who is described in, this
34 subdivision, the Department of Justice shall make available to the
35 public via the Internet Web site his or her name and known aliases,
36 a photograph, a physical description, including gender and race,
37 date of birth, criminal history, the community of residence and
38 ZIP Code in which the person resides or the county in which the
39 person is registered as a transient, and any other information that
40 the Department of Justice deems relevant, but not the information

1 excluded pursuant to subdivision (a) or the address at which the
2 person resides.

3 (2) This subdivision shall apply to the following offenses and
4 offenders:

5 (A) Subdivision (a) of Section 243.4, provided that the offense
6 is a felony.

7 (B) Section 266, provided that the offense is a felony.

8 (C) Section 266c, provided that the offense is a felony.

9 (D) Section 266j.

10 (E) Section 267.

11 (F) Subdivision (c) of Section 288, provided that the offense is
12 a misdemeanor.

13 (G) Section 288.3, provided that the offense is a misdemeanor.

14 (H) Section 288.4, provided that the offense is a misdemeanor.

15 (I) Section 626.81.

16 (J) Section 647.6.

17 (K) Section 653c.

18 (L) Any person required to register pursuant to Section 290
19 based upon an out-of-state conviction, unless that person is
20 excluded from the Internet Web site pursuant to subdivision (e).
21 However, if the Department of Justice has determined that the
22 out-of-state crime, if committed or attempted in this state, would
23 have been punishable in this state as a crime described in
24 subdivision (c) of Section 290, the person shall be placed on the
25 Internet Web site as provided in subdivision (b) or (c), as applicable
26 to the crime.

27 (e) (1) If a person has been convicted of the commission or the
28 attempted commission of any of the offenses listed in this
29 subdivision, and he or she has been convicted of no other offense
30 listed in subdivision (b), (c), or (d) other than those listed in this
31 subdivision, that person may file an application with the
32 Department of Justice, on a form approved by the department, for
33 exclusion from the Internet Web site. If the department determines
34 that the person meets the requirements of this subdivision, the
35 department shall grant the exclusion and no information concerning
36 the person shall be made available via the Internet Web site
37 described in this section. He or she bears the burden of proving
38 the facts that make him or her eligible for exclusion from the
39 Internet Web site. However, a person who has filed for or been
40 granted an exclusion from the Internet Web site is not relieved of

1 his or her duty to register as a sex offender pursuant to Section
2 290 nor from any otherwise applicable provision of law.

3 (2) This subdivision shall apply to the following offenses:

4 (A) A felony violation of subdivision (a) of Section 243.4.

5 (B) Section 647.6, if the offense is a misdemeanor.

6 (C) A felony violation of Section 311.1, subdivision (b), (c), or
7 (d) of Section 311.2, or Section 311.3, 311.4, 311.10, or 311.11 if
8 the person submits to the department a certified copy of a probation
9 report filed in court that clearly states that all victims involved in
10 the commission of the offense were at least 16 years of age or older
11 at the time of the commission of the offense.

12 (D) (i) An offense for which the offender successfully
13 completed probation, provided that the offender submits to the
14 department a certified copy of a probation report, presentencing
15 report, report prepared pursuant to Section 288.1, or other official
16 court document that clearly demonstrates that the offender was
17 the victim's parent, stepparent, sibling, or grandparent and that the
18 crime did not involve either oral copulation or penetration of the
19 vagina or rectum of either the victim or the offender by the penis
20 of the other or by any foreign object.

21 (ii) An offense for which the offender is on probation at the
22 time of his or her application, provided that the offender submits
23 to the department a certified copy of a probation report,
24 presentencing report, report prepared pursuant to Section 288.1,
25 or other official court document that clearly demonstrates that the
26 offender was the victim's parent, stepparent, sibling, or grandparent
27 and that the crime did not involve either oral copulation or
28 penetration of the vagina or rectum of either the victim or the
29 offender by the penis of the other or by any foreign object.

30 (iii) If, subsequent to his or her application, the offender commits
31 a violation of probation resulting in his or her incarceration in
32 county jail or state prison, his or her exclusion, or application for
33 exclusion, from the Internet Web site shall be terminated.

34 (iv) For the purposes of this subparagraph, "successfully
35 completed probation" means that during the period of probation
36 the offender neither received additional county jail or state prison
37 time for a violation of probation nor was convicted of another
38 offense resulting in a sentence to county jail or state prison.

39 (3) If the department determines that a person who was granted
40 an exclusion under a former version of this subdivision would not

1 qualify for an exclusion under the current version of this
2 subdivision, the department shall rescind the exclusion, make a
3 reasonable effort to provide notification to the person that the
4 exclusion has been rescinded, and, no sooner than 30 days after
5 notification is attempted, make information about the offender
6 available to the public on the Internet Web site as provided in this
7 section.

8 (4) Effective January 1, 2012, no person shall be excluded
9 pursuant to this subdivision unless the offender has submitted to
10 the department documentation sufficient for the department to
11 determine that he or she has a SARATSO risk level of low or
12 moderate-low.

13 (f) The Department of Justice shall make a reasonable effort to
14 provide notification to persons who have been convicted of the
15 commission or attempted commission of an offense specified in
16 subdivision (b), (c), or (d), that on or before July 1, 2005, the
17 department is required to make information about specified sex
18 offenders available to the public via an Internet Web site as
19 specified in this section. The Department of Justice shall also make
20 a reasonable effort to provide notice that some offenders are
21 eligible to apply for exclusion from the Internet Web site.

22 (g) (1) A designated law enforcement entity, as defined in
23 subdivision (f) of Section 290.45, may make available information
24 concerning persons who are required to register pursuant to Section
25 290 to the public via an Internet Web site as specified in paragraph
26 (2).

27 (2) The law enforcement entity may make available by way of
28 an Internet Web site the information described in subdivision (c)
29 if it determines that the public disclosure of the information about
30 a specific offender by way of the entity's Internet Web site is
31 necessary to ensure the public safety based upon information
32 available to the entity concerning that specific offender.

33 (3) The information that may be provided pursuant to this
34 subdivision may include the information specified in subdivision
35 (b) of Section 290.45. However, that offender's address may not
36 be disclosed unless he or she is a person whose address is on the
37 Department of Justice's Internet Web site pursuant to subdivision
38 (b) or (c).

39 (h) For purposes of this section, "offense" includes the statutory
40 predecessors of that offense, or any offense committed in another

1 jurisdiction that, if committed or attempted to be committed in this
2 state, would have been punishable in this state as an offense listed
3 in subdivision (c) of Section 290.

4 (i) Notwithstanding Section 6254.5 of the Government Code,
5 disclosure of information pursuant to this section is not a waiver
6 of exemptions under Chapter 3.5 (commencing with Section 6250)
7 of Title 1 of Division 7 of the Government Code and does not
8 affect other statutory restrictions on disclosure in other situations.

9 (j) (1) Any person who uses information disclosed pursuant to
10 this section to commit a misdemeanor shall be subject to, in
11 addition to any other penalty or fine imposed, a fine of not less
12 than ten thousand dollars (\$10,000) and not more than fifty
13 thousand dollars (\$50,000).

14 (2) Any person who uses information disclosed pursuant to this
15 section to commit a felony shall be punished, in addition and
16 consecutive to any other punishment, by a five-year term of
17 imprisonment pursuant to subdivision (h) of Section 1170.

18 (k) Any person who is required to register pursuant to Section
19 290 who enters an Internet Web site established pursuant to this
20 section shall be punished by a fine not exceeding one thousand
21 dollars (\$1,000), imprisonment in a county jail for a period not to
22 exceed six months, or by both that fine and imprisonment.

23 (l) (1) A person is authorized to use information disclosed
24 pursuant to this section only to protect a person at risk.

25 (2) Except as authorized under paragraph (1) or any other
26 provision of law, use of any information that is disclosed pursuant
27 to this section for purposes relating to any of the following is
28 prohibited:

29 (A) Health insurance.

30 (B) Insurance.

31 (C) Loans.

32 (D) Credit.

33 (E) Employment.

34 (F) Education, scholarships, or fellowships.

35 (G) Housing or accommodations.

36 (H) Benefits, privileges, or services provided by any business
37 establishment.

38 (3) This section shall not affect authorized access to, or use of,
39 information pursuant to, among other provisions, Sections 11105
40 and 11105.3, Section 8808 of the Family Code, Sections 777.5

1 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871
2 of the Health and Safety Code, and Section 432.7 of the Labor
3 Code.

4 (4) (A) Any use of information disclosed pursuant to this section
5 for purposes other than those provided by paragraph (1) or in
6 violation of paragraph (2) shall make the user liable for the actual
7 damages, and any amount that may be determined by a jury or a
8 court sitting without a jury, not exceeding three times the amount
9 of actual damage, and not less than two hundred fifty dollars
10 (\$250), and attorney's fees, exemplary damages, or a civil penalty
11 not exceeding twenty-five thousand dollars (\$25,000).

12 (B) Whenever there is reasonable cause to believe that any
13 person or group of persons is engaged in a pattern or practice of
14 misuse of the information available via an Internet Web site
15 established pursuant to this section in violation of paragraph (2),
16 the Attorney General, any district attorney, or city attorney, or any
17 person aggrieved by the misuse is authorized to bring a civil action
18 in the appropriate court requesting preventive relief, including an
19 application for a permanent or temporary injunction, restraining
20 order, or other order against the person or group of persons
21 responsible for the pattern or practice of misuse. The foregoing
22 remedies shall be independent of any other remedies or procedures
23 that may be available to an aggrieved party under other provisions
24 of law, including Part 2 (commencing with Section 43) of Division
25 1 of the Civil Code.

26 (m) The public notification provisions of this section are
27 applicable to every person described in this section, without regard
28 to when his or her crimes were committed or his or her duty to
29 register pursuant to Section 290 arose, and to every offense
30 described in this section, regardless of when it was committed.

31 (n) A designated law enforcement entity and its employees shall
32 be immune from liability for good faith conduct under this section.

33 (o) The Attorney General, in collaboration with local law
34 enforcement and others knowledgeable about sex offenders, shall
35 develop strategies to assist members of the public in understanding
36 and using publicly available information about registered sex
37 offenders to further public safety. These strategies may include,
38 but are not limited to, a hotline for community inquiries,
39 neighborhood and business guidelines for how to respond to

1 information posted on this Internet Web site, and any other resource
2 that promotes public education about these offenders.

3 *SEC. 3. No reimbursement is required by this act pursuant to*
4 *Section 6 of Article XIII B of the California Constitution because*
5 *the only costs that may be incurred by a local agency or school*
6 *district will be incurred because this act creates a new crime or*
7 *infraction, eliminates a crime or infraction, or changes the penalty*
8 *for a crime or infraction, within the meaning of Section 17556 of*
9 *the Government Code, or changes the definition of a crime within*
10 *the meaning of Section 6 of Article XIII B of the California*
11 *Constitution.*